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### VOTING MANDATE


#### NATIONAL ENVIRONMENT LAWS: AMENDMENT BILL [B66B-2008]

The Portfolio Committee on Agriculture and Land Administration; Economic Development and Planning ("the Committee") considered the National Environment Laws Amendment Bill [B66B-2008] ("the Bill"). In its meeting of the 7<sup>th</sup> November 2008 the Committee agreed on a negotiating mandate and the mandate was accordingly sent to the province's delegation in the National Council of Provinces ("the NCOP")

As a form of feedback to its negotiating mandate, the Committee received minutes of the meetings held on the 11<sup>th</sup> and 18<sup>th</sup> November 2008 by the Select Committee on Land and Environmental Affairs ("The Select Committee"), and has noted the proposed amendments contained therein, as well as the responses to concerns raised by provinces from the National Department of Environmental Affairs and Tourism ("the DEAT").

The Committee met on the 22 January 2009 to consider the minutes of the Select Committee. After deliberations, the Committee supported the Bill with the proposed amendments.

The delegation representing the Province of Mpumalanga in the National Council of Provinces (NCOP) is conferred with authority and a mandate to vote in favour of the Bill, with the amendments proposed by the Select Committee.

  
**HON. YN PHOSA**  
**SPEAKER: MPUMALANGA PROVINCIAL  
LEGISLATURE**

22.01.2009  
DATE

**"We are about : Law making, Oversight, Public Participation  
and Public Involvement"**

**REPORT OF THE PORTFOLIO COMMITTEE ON AGRICULTURE AND  
LAND ADMINISTRATION; ECONOMIC DEVELOPMENT AND PLANNING  
ON THE NATIONAL ENVIRONMENT LAWS AMENDMENT BILL  
[B66B-2008]**

## **1. Introduction**

The National Environment Laws Amendment Bill [B66B-2008] (the Bill) was referred to the Portfolio Committee on Agriculture and Land Administration; Economic Development and Planning (the Committee) for consideration and with the responsibility to report back its recommendations to the House.

## **2. Objectives of the bill**

The National Environment Laws Amendment Bill [B66B-2008] was introduced to Parliament in October 2007 to amend various environmental Acts. The essence of the amendment is to consolidate the provisions of various environmental Acts to be consistent with the National Environmental Management Act (NEMA), 107 of 1998. It also updates the penalties and criminal provisions of older legislation such as the Atmospheric Pollution Prevention Act, 45 of 1965 (APPA) to be in line with the NEMA and other specific environmental management Acts. It also provides magistrate's courts the jurisdiction to handle environmental offences. Furthermore, the amendment provides that the failure to report an emergency incident that affects the environment negatively be elevated to constitute an offence that is punishable by paying a fine or being imprisoned.

The Bill seeks to amend the:

- Atmospheric Pollution Prevention Act, 1965, so as to adjust the penalties provided for in the said Act;
- Environment Conservation Act, 1989 so as to adjust the penalties provided for in the said Act and to remove the need to publish directions in the *Gazette*;
- National Environmental Management Act, 1998 [NEMA Act] so as to delete certain definitions; to provide for the establishment of fora or advisory committees; to make provision for increased powers of the courts; to extend the scope of routine inspections to the search of vehicles; to remove the requirement that Environmental Management Inspectors (EMI's) should carry notices of designation with them; and

to regulate the jurisdiction of magistrate's courts in instances where the maximum fines have been increased;

- National Environmental Management: Protected Areas Act, 2003 so as to provide for increased measures of control over escaped animals and to adjust the penalties provided for in the said Act;
- National Environmental Management: Biodiversity Act, 2004 so as to provide for general surveillance monitoring; to provide further consideration for a Biodiversity management plan; to provide that an environment impact assessment (EIA) must be obtained when genetically modified organisms are involved; to introduce notification requirements in the discovery phase of a bioprospecting project; to take into consideration knowledge of specific individuals when issuing specific bioprospecting permits; to allow for the Director-General or a trustee to manage the Bioprospecting Fund; to allow for the renewal or amendment of a permit; to amend the regulations to allow for hunting; and to effect certain textual alterations;
- National Environmental Management: Air Quality Act, 2004 so as to provide for a processing fee to review a licence; and to include directors or senior managers in a juristic person for the criteria for a fit and proper person;
- And to provide for matters connected therewith.

### **3. Method of work**

The Bill was referred to the Portfolio Committee on Agriculture and Land Administration; Economic Development and Planning for consideration and further processing. Thereafter the Committee was briefed on the Bill by Hon. A Watson, the permanent delegate representing the Province of Mpumalanga in the NCOP on 28 October 2008.

In attendance at the briefing were Officials from the National Department of Environmental Affairs and Tourism (DEAT), the Environmental Services Chief Directorate of the Provincial Department of Agriculture and Land Administration (DALA) and the Mpumalanga Tourism and Parks Agency (MTPA). The Legal Services section of the Legislature was also present at the briefing.

During the deliberations, the committee raised some concerns on the Bill, which were responded to by the DEAT, as reflected in the minutes of the

Select Committee on Land and Environmental Affairs meeting held on 18 November 2008.

Copies of the Bill and invitations to the public hearings were sent to the following stakeholders:

- The Mayors and the Speakers of the following municipalities:
  - Mbombela Local Municipality
  - Thembisile Municipality
  - Pixley Ka Seme Municipality
- Traditional Leaders
- Parliamentary Constituency Offices
- NinhamShand Environmental and Engineering Consultants
- Wildlife and Environment Society of South Africa (WESSA)
- Federation for a Sustainable Environment (FSE)
- Environment Escarpment Protection Group (EEPOG)
- Mpumalanga Lakes District Protection Group (MLDPG)
- Schoemanskloof Conservancy
- SANPARKS (Kruger National Park)
- SASOL
- SAPPI
- SANBI (South African National Biodiversity Institute)

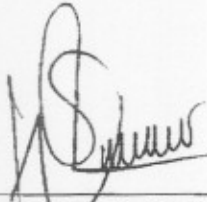
The committee made a call for written submissions using the following media:

- Newspaper advertisement (The Sowetan)
- Radio advertisement (Radio Ligwalagwala)

Written comments were received from the following stakeholders:

- Department of Agriculture and Land Administration
- Mpumalanga Tourism and Parks Agency
- South African National Biodiversity Institute (Lowveld Botanical Gardens)





**Hon. SW Lubisi**  
**Chairperson: Portfolio Committee on**  
**Agriculture & Land Administration;**  
**Economic Development & Planning**

22.01.2009  
**Date**

RECEIVED  
2009-01-27

**NORTH WEST PROVINCIAL LEGISLATURE**



**FINAL MANDATE**

**Report on the Public Hearings held by the Portfolio Committee on  
Agriculture, Environment and Conservation**

**On the**

**National Environmental**

**Laws Bill [B66B-2008].**

**23 JANUARY 2009**

## TERMS OF REFERENCE

The above mentioned Bill was referred to the Portfolio Committee for consideration as a matter of priority.

## BRIEFING

On 27 October 2008 the Portfolio Committee for Agriculture, Conservation and Environment received a briefing from the NCOP on the National Environmental Bill [B66B-2008] on the amendments proposed by the Bill and the potential implications it holds on the current *status quo*.

## CONSIDERATION

Dates were set by the above Portfolio Committee for the public hearings and areas identified where the same would be held. It was the decision of the Committee that on 05 and 07 November 2008 public hearings would be held at the following areas respectively; namely Vryburg in the township of Huhudi and in Brits. Attendants of the public hearings were copious, and came from regions beyond the targeted areas.

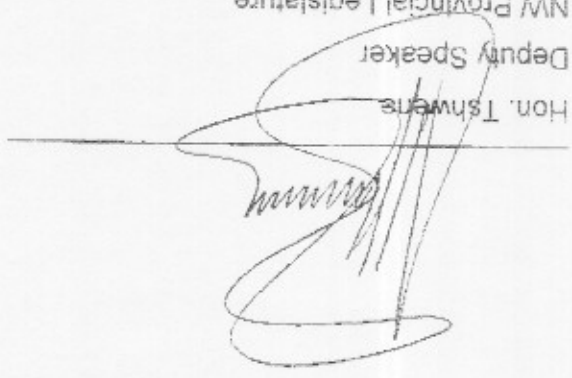
## RESOLUTION

The portfolio Committee having considered the inputs and views of the public resolved that the permanent Delegates support the Amendments Bill with the inputs made on the negotiating mandate

NW Provincial Legislature

Deputy Speaker

Hon. Tshwene

A handwritten signature in black ink, appearing to be 'Tshwene', is written over a horizontal line. The signature is stylized and overlaps the text 'Hon. Tshwene'.





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Date: 27 JAN 2009

The Chairperson  
National Council of Provinces  
Hon MJ Mahlangu

### FINAL MANDATE: NATIONAL ENVIRONMENTAL LAWS AMENDMENT BILL [B66B - 2008]

#### 1. INTRODUCTION

The Chairperson of the Portfolio Committee on **Tourism, Environment & Conservation**, **Hon J Beukes** tables the Committee's negotiating mandate as adopted by the Portfolio Committee on the 11th of **November 2008**, on the *National Environmental Laws Amendment Bill [B66B - 2008]*.

#### 2. PROCESS FOLLOWED

- 2.1 The Speaker of the NCPL, has upon receipt of the Bill referred the *National Environmental Laws Amendment Bill [B 66B -2008]* to the Portfolio Committee on Tourism, Environment & Conservation.
- 2.2 The Portfolio Committee received a briefing on the Bill from the Northern Cape's Permanent Delegate to the NCOP **Hon R Tau** at its meeting on the **24<sup>th</sup> of October 2008**.
- 2.3 The Portfolio Committee resolved at its meeting held on **24th October 2008** to hold public hearings on the referred Bill in the districts of **Francis Baard, Jiyanda and Namaqua** to solicit the views of the affected beneficial communities and stakeholders with regard to the *National Environmental Laws Amendment Bill*.

Three (3) public hearings were facilitated as per Committee resolution in **Okiep, Upington, and Kimberley**. Both written and oral submissions were called for and the public extensively engaged with the Committee on their views.

On **11 November 2008** the Portfolio Committee deliberated and considered the principle of *National Environmental Laws Amendment Bill [B66B -2008]*, as well as the report on the analysis of the views of the public.

The following are the oral submissions from the public:

#### 2.4 VIEWS OF THE PUBLIC ON THE BILL

- Establishment of regional advice centres for access to information and education on the environment with regard to pollution and rehabilitation.
- The mining companies continue to pollute adjacent residential areas with the chemicals they use during production processes. The community must be guided on methods and places to raise their complaints
- Embark on forums to keep the community abreast on environmental matters.
- The usage of technical language on the Environment Impact Assessment (EIA) dithers the public from participating in the tendering process.
- Cement companies must be discouraged to operate in residential areas.
- Health inspectors are bribed by big businesses.
- Genetically-modified organisms can endanger the health of humans and plants.
- Big companies are the worst transgressors and should therefore be punished by the State. These penalties must be paid once-off.
- The Bill should address sewage spills due to broken pipes in residential areas.
- It is very important that government ensure the availability of appropriate skills and resources to facilitate the optimal impact of the Bill.
- Poor service delivery of municipalities contributes to pollution and degradation of the environment.
- Poor enforcement of environmental laws in general.
- The Bill does not provide for the responsibility of the Government beyond 100 years with regard to the Nuclear Dumping Sites.
- It is government's responsibility to educate everybody-especially learners-of the dangers of pollution

#### 2.5 KEY DETERMINING PRINCIPLES

The public hearings held by the Portfolio Committee were successful.

The public that attended the public hearings did not oppose the Bill.

#### 3. COMMITTEE POSITION AT THE NEGOTIATING STAGE

The Portfolio Committee on *Tourism Environment & Conservation*,

In principle support the Bill.

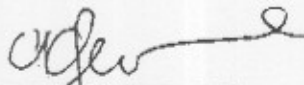
The Committee raised the following concerns:

1. Cement, iron ore, manganese companies and others posing a threat to human health, must be discouraged from operating in residential areas
2. The lack of coordination and cooperation amongst various stakeholder departments in administering and complying with environmental legislation.

**4. ADOPTION OF THE BILL**

The Committee adopted this final mandate.

The Legislature mandates the permanent delegates to participate in deliberations at the final mandate meeting and to **support** the Bill.

  
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**HON. SEOPOSENGWE**  
**SPEAKER**

Wes-Kaapse Provinsiale Parlement  
Western Cape Provincial Parliament  
IPalamente yePhondo leNtshona Koloni

(S)



**FINAL MANDATE OF THE WESTERN CAPE PROVINCIAL PARLIAMENT ON  
THE NATIONAL ENVIRONMENTAL LAWS AMENDMENT BILL [B66B-2008]  
(NCOP)**

Final mandate of the Western Cape Provincial Parliament on the *National Environmental Laws Amendment Bill [B66B-2008]* (NCOP), as resolved by the Standing Committee on Community Development on 20 January 2009.

The Western Cape Provincial Parliament having considered the subject of the *National Environmental Laws Amendment Bill [B66B-2008]* (NCOP) referred to the Provincial Parliament in terms of the rules of the National Council of Provinces (NCOP) begs to report that it confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the following amendments.

**Clause 35**

On page 10,

1. after line 43 insert a new paragraph (b);
2. "the insertion of 'and' after paragraph (c)"

**SE BYNEVELDT**  
**SPEAKER**  
22 January 2009

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